

1 E. MARTIN ESTRADA
United States Attorney
2 SCOTT M. GARRINGER
Assistant United States Attorney
3 Chief, Criminal Division
SAMUEL J. DIAZ (Cal. Bar No. 304503)
4 Assistant United States Attorney
International Narcotics, Money Laundering,
5 & Racketeering Section
1400 United States Courthouse
6 312 North Spring Street
Los Angeles, California 90012
7 Telephone: (213) 894-3045
Facsimile: (213) 894-6269
8 E-mail: samuel.diaz@usdoj.gov

9 Attorneys for Plaintiff
UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MARTHA CATALINA ESPARZA
16 ARELLANO,

17 Defendant.

No. CR 22-435-JFW

GOVERNMENT'S SENTENCING POSITION
PAPER AS TO DEFENDANT MARTHA
CATALINA ESPARZA ARELLANO

Hearing Date: January 9, 2023

Hearing Time: 8:00 a.m.

Location: Courtroom of the
Hon. John F. Walter

18
19 Plaintiff United States of America, by and through its counsel
20 of record, the United States Attorney for the Central District of
21 California and Assistant United States Attorney Samuel J. Diaz,
22 hereby files its sentencing position paper as to defendant Martha
23 Catalina Esparza Arellano.

24 //

25 //

26 //

27

28

1 This sentencing position paper is based upon the attached
2 memorandum of points and authorities, the files and records in this
3 case, and such further evidence and argument as the Court may permit.

4 Dated: December 7, 2022

Respectfully submitted,

5 E. MARTIN ESTRADA
6 United States Attorney

7 SCOTT M. GARRINGER
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/
11 _____
12 SAMUEL J. DIAZ
13 Assistant United States Attorney

14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

On a British Airways flight from London to Los Angeles, Defendant Martha Catalina Esparza Arellano slapped a British Airways flight attendant and pulled H.H.'s hair and ear, the passenger sitting next to her. She has pled guilty to two misdemeanor assault counts. With a total offense level of 7 and a criminal history category of I, defendant faces a guidelines range of 0 to 6 months' imprisonment. For the reasons explained below, the government respectfully requests that defendant be sentenced to two one-year terms of probation, to be served concurrently.

II. STATEMENT OF FACTS

On December 11, 2021, defendant boarded British Airways flight 281 from London, England to Los Angeles, California. During the flight, defendant became intoxicated and physically aggressive. While in the special aircraft jurisdiction of the United States, defendant slapped British Airways flight attendant S.S. in the face and pulled H.H.'s hair and ear. H.H. was a fellow passenger on the flight who occupied a seat next to defendant.

On September 23, 2022, the government filed an information charging defendant with two counts of assault by striking, beating, or wounding, in violation of 18 U.S.C. § 113(a)(4) and 49 U.S.C. § 46506. (Dkt. 1.) On October 26, 2022, defendant pled guilty to both misdemeanor assault counts. (Dkt. 15.)

III. GUIDELINES CALCULATION

The Presentence Report correctly calculates defendant's base offense level as 7. (Presentence Report ("PSR") ¶ 22.) A two-level increase applies for multiple counts under U.S.S.G. § 3D1.4, (*id.* at

1 § 30), along with a two-level decrease for acceptance of
2 responsibility, for a total offense level of 7. (Id. at § 33.)
3 Defendant has no known criminal history and is in criminal history
4 category I. With a total offense level of 7 and a criminal history
5 category I, the applicable guidelines range is 0 to 6 months'
6 imprisonments.

7 Because the applicable guidelines range falls within Zone A of
8 the Sentencing Table, defendant is eligible for probation, U.S.S.G.
9 § 5B1.1(a), with a statutory maximum term of five years' probation
10 per count. (PSR at § 76.)

11 Defendant faces a statutory maximum fine of \$100,000 and a fine
12 range of \$1,000 to \$9,500 based on a total offense level of 7. (Id.
13 at § 81.)

14 **IV. One Year of Probation on Each Count and a Fine of \$4,454 Is Just**

15 A sentence of probation, at the low-end of the applicable
16 guidelines range, along with a fine covering the cost of defendant's
17 supervision while on probation, accounts for the severity of
18 defendant's conduct and her personal characteristics under 18 U.S.C.
19 § 3553(a).

20 Defendant's offenses were serious. She became intoxicated on an
21 international flight and physically assaulted a British Airways
22 flight attendant, S.S., while S.S. was on duty, and a fellow
23 passenger, H.H. Defendant not only physically assaulted others, she
24 disrupted British Airway's operation of the flight. It is also
25 important to note that, while serious, defendant's offenses are
26 misdemeanors.

27 Further, defendant warrants a low-end sentence of probation
28 based on her personal characteristics. Defendant has no known prior

1 criminal history and readily accepted responsibility for her actions,
2 quickly pleading to the two-count information. Moreover, given
3 defendant's age and lack of prior criminal history, she presents a
4 low-risk of recidivism. Accordingly, the government respectfully
5 requests a one-year term of probation on each count, to be served
6 concurrently.

7 Furthermore, although probation seeks a fine of \$9,500, the
8 upper-end of the applicable fine range, the government believes that
9 a fine of \$4,454, the cost to the government for a one-year period of
10 supervision, (PSR at ¶ 82), is more appropriate and falls nearly at
11 the mid-point of the applicable fine range.

12 **V. CONCLUSION**

13 For the foregoing reasons, the government respectfully requests
14 that this Court impose a sentence of (1) one-year probation on each
15 count, to be served concurrently on the terms and conditions
16 recommended by the Probation Office; (2) a fine of \$4,454; and (3) a
17 mandatory special assessment of \$200.